



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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AO-97-09

Representative Jo Ann Sprague
State House - Room 237
Boston, MA 02133-1020

Re: Massachusetts Republican Legislators Association

Dear Representative Sprague:

This letter is in response to your request for an opinion regarding the formation of a new organization which will be called the Massachusetts Republican Legislators Association.

Question

You have asked two questions: (1) Would the Association be considered a "membership organization" within the context of M.G.L. c. 55, s. 1?; and (2) What legal steps need to be taken to establish the association?

Answers

(1) Yes, the Association would be considered a "membership organization."

(2) The Association would not be a political committee and provided it does not make political contributions or expenditures, it would not be required to file with OCPF.

Facts

The Association would be organized by members of the Republican Caucuses of the House and Senate. Any Republican legislator or former legislator may be a member. Dues would be \$50 for a lifetime membership.

The purpose of the organization would be the financing of ceremonial occasions such as fraternal events, dinners and awards (e.g., plaques) to honor outgoing Republican legislators. If the funds of the organization are not sufficient to pay for a dinner or other event, members would be asked to pay the organization's treasurer, in advance, to meet the amounts needed to pay all anticipated costs.

The Association would not aid political candidates, i.e., dues will not be used to make contributions to members or other candidates. If the Association issues a newsletter, the newsletter would only be distributed to members, and it would not mention political fundraising events or other events held on behalf of members or other candidates.

Discussion

1. The Association would be considered a Membership Organization.

In 1994 the campaign finance law was amended to state that "communications from a membership organization, not including a corporation subject to section eight, to its members and their families on any subject shall not be deemed to be a contribution or expenditure." See M.G.L. c. 55, s. 1.¹ Political committees may not be

¹ Section 1 also provides that receipts or disbursements in connection with "testimonials" or other events "held on behalf" of a legislator are considered "contributions" or "expenditures" within the scope of the campaign finance law. An event or gift to honor a retiring legislator, which does not involve the receipt of funds by the legislator, is not held "on behalf" of the legislator and would not be considered a "testimonial" for purposes of M.G.L. c. 55, s. 1.

"membership organizations." See 970 CMR 2.02, which defines the term "membership organization." If an association is a "membership organization," costs incurred to distribute newsletters to members (regardless of the content of the newsletters) are not "contributions" or "expenditures" subject to the reporting provisions and limitations of the campaign finance law.

An association is a "membership organization" if it identifies individuals within the organization as members. See 970 CMR 2.02. In addition to identifying individuals as members, however, persons are "members" of an organization only if the organization requires some affirmative action to be taken by the person in order to become a member, e.g., payment of dues or the person's making a request to be included on the membership list.

Because past or present legislators may become "members" upon request or the payment of dues, the Association would be a membership organization and those who have paid dues or who have requested membership status would be considered members.

2. The Association would not be a political committee.

The campaign finance law defines a "political committee" as any association, organization, or other group of persons "which receives contributions or makes expenditures for the purpose of influencing the nomination or election of a candidate, or candidates . . ." (Emphasis added). See M.G.L. c. 55, s. 1.

The use of the name of a political party by a group suggests that the group might be a political committee within the context of section 1. Such use is not, however, the determining factor. Compare AO-94-43 (Republican Club of Massachusetts is not a political committee because its activities are primarily social or informational in nature) and AO-95-19 (Association of Massachusetts Republican Town & City Committee Chairmen is a political committee because it provides consulting services, fundraising assistance and other services for political party committees).²

Like the Republican Club of Massachusetts, the Massachusetts Republican Legislators Association's activities would be primarily social or informational in nature. Therefore, it would not be required to organize with OCPF as a political committee.

3. Steps to be taken to establish the Association.

Membership organizations which do not make "contributions" or "expenditures" to influence an election are not required by the campaign finance law to file either organizational statements or campaign finance reports with this office. If the Association chooses to organize as a non-profit corporation or tax exempt organization, it should contact the Secretary of State's office or the Internal Revenue Service for more information.

This opinion is provided on the basis of representations in your letter and in conversations with OCPF staff, and is solely within the context of the campaign finance law.

I encourage you to contact us in the future if you have further questions.

Sincerely,



Michael J. Sullivan
Director

² M.G.L. c. 56, s. 42 states that organizations cannot use the name of a political party in circulars, advertisements or publications, except with the written consent of the duly elected state committee representing such political party.